



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

May 13, 2005

Andrea Green, Treasurer  
Human Rights Campaign PAC  
1640 Rhode Island Avenue NW  
Washington, DC 20036

**Response Due Date:**  
**June 13, 2005**

Identification Number: C00235853

Reference: Amended 30 Day Post-General Report (10/14/04-11/22/04), received  
1/27/05

Dear Ms. Green:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-The beginning cash balance of this report should equal the ending balance of your 2004 12 Day Pre-General Report. Please clarify this discrepancy and amend any subsequent report(s) that may be affected by this correction.

-Schedule B of your report discloses a \$9,850.00 payment(s) to your connected organization for "in-kind." 2 U.S.C. §441b prohibits a corporation or labor organization from contributing or expending funds for the purpose of influencing any federal election; however, a connected organization may pay for the solicitation and administrative costs of its separate segregated fund. Further, 11 CFR §114.2(f) prohibits corporations and labor organizations from facilitating the making of contributions to candidates or political committees, other than to the separate segregated funds of the corporations and labor organizations. Facilitation means using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election. The use of corporate or labor organization resources in connection with a fundraiser is permissible only if the corporation or labor organization receives **advance** payment for the fair market value of such services.

Please amend your report to clarify whether the payment to your connected organization was for expenditures which were intended to influence federal elections and provide the dates of the activity conducted by your connected organization. In addition, please clarify whether your committee made advance payment for these services to your connected organization. Although the Commission may take further legal action concerning this matter, your prompt action will be taken into consideration.

-Schedule B supporting Line 23 of your report discloses a contribution(s) to "New Jersey Victory 2004 Federal Account" and "North Dakota Victory 2004 Federal Account." Please clarify whether this is a federal committee(s), as there does not appear to be a committee(s) registered with the Commission under this name(s). In the event this is a non-federal committee(s), please disclose it on Schedule B supporting Line 29 of the Detailed Summary Page.

-Schedule E of your report discloses a total of \$3,902.04 in payments to your connected organization for "Communication expenses." In a miscellaneous electronic submission to the Commission on 11/19/04, you stated that the memo entries on Schedule E were "a draw down on an amount advanced to the Human Rights Campaign by HRC PAC earlier." However, your report(s) does not appear to disclose any apparent advanced payments to support this independent expenditure(s).

Please be advised that your committee must report any "advance payments" made to your connected organization on Schedule B for Line 21(b), during the appropriate reporting period in which it was made as regular entries included in the totals for your report (not memo entries). These disbursements must be clearly identified as "advanced payment(s)" along with the specific purpose for the advance. Subsequently, when the committee uses the corporate or labor organization resources or facilities in connection with a contribution/expenditure on behalf of a candidate, the fair market value attributed to such services should be disclosed as negative amounts on Schedule B for Line 21(b) with a corresponding positive entry on the appropriate line reflecting the activity conducted on behalf of the candidate (in-kind contributions on Schedule B for Line 23 or independent expenditures on Schedule E for Line 24). Please amend your report to clarify this discrepancy and properly disclose this activity. For additional information, please refer to the enclosed sample of properly reported advanced payments for the use of resources and facilities.


-Schedule E of your report indicates that your committee may have failed to file one or more of the required 24 hour notices regarding "last minute"

independent expenditures (see attached). A political committee must file a 24 hour report with the Federal Election Commission as specified in 11 CFR §104.4(c), within 24 hours of any independent expenditures of \$1,000 or more with respect to a given election, made between two and twenty days before an election. Please be advised that if any independent expenditures below \$1,000 have not been previously disclosed, they must be disclosed on the required 24 Hour Notice along with the independent expenditure(s) that triggered the notice requirement (see Advisory Opinion 2003-40). The notice must be received by the Commission by 11:59 p.m. on the day following the date on which independent expenditures that aggregate \$1,000 or more are publicly distributed or disseminated. These expenditures must then be fully itemized on Schedule E, or as memo entries on Schedule E and reflected on Schedule D if distributed or disseminated prior to payment, of the next report required to be filed by the committee. Although the Commission may take further action concerning this matter, your prompt response will be taken into consideration. 11 CFR §104.3(b)

Unlike previous election cycles, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1141.

Sincerely,



Kristine Adams  
Campaign Finance Analyst  
Reports Analysis Division

# HUMAN RIGHTS CAMPAIGN PAC

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Missing 24 Hour Notices:

Name of Payee	Date	Amount	Purpose	Candidate
City Link	10/21/04	\$1,023.00	Advertising	George W. Bush
Las Vegas Press	10/21/04	\$1,645.00	Advertising	George W. Bush
Portland Phoenix	10/21/04	\$1,380.00	Advertising	George W. Bush
Seattle Weekly	10/21/04	\$2,948.00	Advertising	George W. Bush

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## CHAPTER 10

# Use of Resources and Facilities

Under certain circumstances, corporations (including incorporated membership and trade associations) and labor organizations may allow candidates, political committees and individuals to use their resources and facilities (e.g., computers, phones, office equipment, furniture and rooms) in connection with federal elections. Described below are rules that apply to the use of facilities; note particularly when the user must reimburse the organization and when payment must be made in advance of the facility use.

This section does not apply to the use of an organization's facilities for the purpose of administering an SSF or raising funds for it. See pages 13 and 24.

## 1. Individual Volunteer Activity

### Incidental Use

Corporate employees and stockholders and labor organization employees, members and officials may make occasional, isolated or incidental use of corporate/labor organization facilities for their own individual volunteer activities in connection with a federal election. Note that the Commission has said that the use of facilities during one hour per week or four hours per month is considered "incidental use." Note, however, that this safe harbor does not apply when the employee is asked by a superior to do the volunteer work as a part of his/her regular duties. 114.2(f)(2)(i)(A). See Use of Staff, this page.

### Reimbursement

#### Incidental Use

When the individual's use of the facilities is occasional, isolated or incidental, the individual must reimburse the organization to the extent that his/her activity increased the corporate/labor organization's overhead or operating costs. 114.9(a)(1) and (b)(1).

### Activity Exceeding Incidental Use

When the individual's use of facilities exceeds the time frame of "incidental use," the individual must, within a commercially reasonable time, reimburse the corporation/labor organization for the usual and normal rental charge for facility use. 114.9(a)(2) and (b)(2).

## 2. Use in Fundraising

Corporations and labor organizations are generally prohibited from using their resources or facilities to engage in fundraising activities in connection with a federal election (except for fundraising for their own SSF—see Chapter 3. See also Appearances Before the Restricted

Class, Solicitation by the Connected Organization, page 63). There are, however, three narrow exceptions.

### Use of Staff

Corporate/labor officials or employees may direct subordinates to plan, organize or carry out fundraising as part of their work, using corporate/labor organization resources, only if the corporation or labor organization receives advance payment for the fair market value of the services, including compensation, benefits and overhead. However, using coercion to urge anyone to engage in fundraising on behalf of, or make a contribution to, a candidate or political committee is prohibited. 114.2(f)(2)(i)(A) and (iv). AO 1998-16.

## ADVANCE PAYMENT FOR USE OF RESOURCES AND FACILITIES

SCHEDULE B (FEC Form 3X)		FOR LINE NUMBER: (check only one)		PAGE 1 OF 1
ITEMIZED DISBURSEMENTS		Use separate schedule(s) for each category of the Detailed Summary Page		
		<input checked="" type="checkbox"/> 21a	<input type="checkbox"/> 22	<input type="checkbox"/> 23
		<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.				
NAME OF COMMITTEE (in full) <b>Gold Nugget Corporation PAC</b>				
Full Name (Last, First, Middle Initial)				
A. <b>Gold Nugget Corporation</b>		Date of Disbursement 03 / 10 / 2002		
Mailing Address <b>101 Commerce Road</b>		Amount of Each Disbursement this Period <b>1000.00</b>		
City <b>Alexandria</b>	State <b>VA</b>	Zip Code <b>00000</b>		
Purpose of Disbursement <b>Catering services</b>	Category Type <b>011</b>			
Candidate Name				
Office Sought: <input type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			
State: District:				
Full Name (Last, First, Middle Initial)				
B. <b>Gold Nugget Corporation</b>		Date of Disbursement 03 / 11 / 2002		
Mailing Address <b>101 Commerce Road</b>		Amount of Each Disbursement this Period <b>-600.00</b>		
City <b>Alexandria</b>	State <b>VA</b>	Zip Code <b>00000</b>		
Purpose of Disbursement <b>Fundraiser (catering)</b>	Category Type <b>011</b>			
Candidate Name <b>Karl Midas</b>				
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			
State: NY District: 23				
Full Name (Last, First, Middle Initial)				
C. <b>Gold Nugget Corporation</b>		Date of Disbursement 03 / 11 / 2002		
Mailing Address <b>101 Commerce Road</b>		Amount of Each Disbursement this Period <b>-400.00</b>		
City <b>Alexandria</b>	State <b>VA</b>	Zip Code <b>00000</b>		
Purpose of Disbursement <b>Fundraiser (catering)</b>	Category Type <b>011</b>			
Candidate Name <b>John Rutherford</b>				
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President	Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼			
State: MN District: 03				



## Use of Customer/Client Lists

A corporation or labor organization may, in connection with a fundraiser, use the organization's lists of customers, clients or vendors or others not in the restricted class to send invitations or solicit contributions only if the organization receives advance payment for the fair market value of the lists. 114.2(f)(2)(i)(C).

## Use of Catering or Food Services

In connection with a fundraiser, the corporation or labor organization may operate or obtain catering or other food services only if the corporation or labor organization receives advance payment for the fair market value of the services. 114.2(f)(2)(i)(E).

## Advance Payment

### In Advance

"In advance" means before the staff services, the lists or the catering services are provided.

### Permissible Sources

Any person who is not otherwise prohibited from making a contribution in connection with a federal election (e.g., an individual, PAC or campaign) may make the advance payment. For example, the candidate, the organization's separate segregated fund, the party, or an individual may make the advance payment.

### Effect on Contribution Limits

Payments by the candidate or the candidate's committee will be considered campaign expenditures. Payments by any other person will be considered in-kind contributions to the candidate, subject to limits and reporting requirements.

## 3. Use of Offices and Equipment

If a committee or individual other than an employee or stockholder of a corporation, or a member or official of a labor organization, uses the corporate/labor organization facilities in connection with a federal campaign, the user must reimburse the organization within a commercially reasonable time and at the usual and normal rental charge. Facilities used

## ADVANCE PAYMENT FOR USE OF RESOURCES AND FACILITIES (continued)

SCHEDULE B (FEC Form 3X) ITEMIZED DISBURSEMENTS		FOR LINE NUMBER: (check only one)	PAGE 1 OF 1
Use separate schedule(s) for each category of the Detailed Summary Page		<input type="checkbox"/> 21b <input type="checkbox"/> 22 <input checked="" type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28a <input type="checkbox"/> 28b <input type="checkbox"/> 28c <input type="checkbox"/> 29	
Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.			
NAME OF COMMITTEE (in Full) <b>Gold Nugget Corporation</b>			
Full Name (Last, First, Middle Initial) <b>Gold Nugget Corporation</b>		Date of Disbursement <b>08 / 11 / 2002</b>	
A. <b>Committee to Elect Karl Midas</b>		Amount of Each Disbursement this Period <b>600.00</b>	
Mailing Address <b>189 Victory Road</b>			
City <b>Alexandria</b>		State <b>VA</b>	
Zip Code <b>00000</b>			
Purpose of Disbursement <b>In-kind (fundraiser/catering)</b>		Category/Type <b>011</b>	
Candidate Name <b>Karl Midas</b>			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____	
State: <b>NY</b> District: <b>23</b>			
Full Name (Last, First, Middle Initial) <b>John Rutherford 2002 Committee</b>		Date of Disbursement <b>08 / 11 / 2002</b>	
B. <b>John Rutherford 2002 Committee</b>		Amount of Each Disbursement this Period <b>400.00</b>	
Mailing Address <b>438 Monument Ave.</b>			
City <b>St. Paul</b>		State <b>MN</b>	
Zip Code <b>00000</b>			
Purpose of Disbursement <b>In-kind (fundraiser/catering)</b>		Category/Type <b>011</b>	
Candidate Name <b>John Rutherford</b>			
Office Sought: <input checked="" type="checkbox"/> House <input type="checkbox"/> Senate <input type="checkbox"/> President		Disbursement For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) _____	
State: <b>MN</b> District: <b>03</b>			

for these purposes might include office space, telephones, computers, typewriters, copy machines and furniture. 114.9(d).

## 4. Meeting Rooms

### At Discount or for Free

A corporation or labor organization may offer its meeting rooms to a candidate or a political committee at a discount or for free if:

- It customarily makes the meeting rooms available to clubs, civic or community organizations or other groups at a discount or for free;
- It makes the meeting rooms available on the same terms given to the other groups using the meeting rooms; and
- It makes the meeting rooms available to any other candidate or political committee upon request. 114.13.

### At Normal and Usual Rental Charge

Alternatively, a corporation or labor organization may, at its discretion, rent its meeting rooms to a candidate or political committee provided the corporation or labor organization is reimbursed within a commercially reasonable time and at the usual and normal commercial rental rate. 114.2(f)(2)(B) and (D) and 114.9(d).

EXAMPLE: If Corporation XYZ allows a civic group to use its meeting rooms at a 20 percent discount from the usual and normal rental rate, Corporation XYZ may allow Candidate A to use the meeting rooms at the same 20 percent discount as is given to the civic group. If it allows Candidate A to rent the meeting rooms at the 20 percent discount, Corporation XYZ must allow any other candidates who so request to use the meeting rooms, and it must give them the same 20 percent discount.

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